IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CIVIL APPLICATION NO. 2780 OF 2004
IN
WRIT PETITION NO. 4461 OF 1999

Smt.Ela Suresh Joshi
and others. ... Applicants.

V/s.

Shri Vibhushan Singh
and another. ... Respondents.

Applicant No.3 in person.

None for respondent No.1/petitioner.

CORAM: V.C.DAGA, J.

DATED: 10th March 2006.

P.C.:

. None for respondent No.1/original petitioner. Heard applicant No.3, who is present in person.

2. Perused record and the orders passed by this Court from time to time.

3. By order dated 11th March, 2005, time to file reply was granted subject to payment of costs quantified in the sum of Rs.2,000/-. Applicant No.3, who appears in person, states that the amount of costs has neither been paid nor deposited in this Court. There is no material on

record to show payment and/or deposit of costs as ordered by this court vide order dated 11th March, 2005.

4. Vide another order dated 30th September, 2005, considering the facts that the original petitioner (respondent No.1 herein) has been shifting his residence from one place to another and from one country to another, this Court was pleased to direct him to furnish bank guarantee in the sum of Rs.3,74,000/- within four weeks from the date of the order. It appears that the original petitioner has furnished bank guarantee for a partial amount. In other words, the other order of this Court dated 30th September, 2005 has also not been complied with.

5. In the above view of the matter, considering persistent denial on the part of the petitioner to obey orders of this Court and persistant absence of the petitioner and/or his counsel, I have no option but to dismiss the petition itself for non-compliance of the orders of this Court referred to hereinabove.

6. It is needless to mention that it would be open for the applicants to proceed with the award passed by the Motor Accident Claims Tribunal, Mumbai in accordance with law.

7. Petition is dismissed with costs quantified in the sum of Rs.10,000/- to be paid by the petitioner to the respondents within four weeks from today, failing which, amount of costs shall carry interest at the rate of 10% per annum until the costs is paid in full and final. In the event of non-payment of costs, it would be open for the award holder to execute this order and recover the amount in accordance with law.

8. In view of dismissal of the petition, civil application taken out therein does not survive. Civil application stands disposed of as infructuous.

(V.C.DAGA, J.)